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c 248 Public Parks Act

Ontario

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CHAPTER 248.

The Public Parks Act.

- Establishment of parks.** **1.**—(1) A park, or a system of parks, avenues, boulevards and drives, or any of them, may be established in any municipality, and the same, as well as existing parks and avenues, may be controlled and managed in the manner hereinafter provided.
- Petition.** (2) Subject to the provisions of subsection 5, if a petition is presented to the council of any county or city signed by not less than five hundred electors, or to the council of any town or township signed by not less than two hundred electors, or to the council of any village signed by not less than seventy-five electors, praying for the adoption of this Act, the council may pass a by-law giving effect to the petition, with the assent of the electors qualified to vote at municipal elections, given before the final passing of the by-law as provided by *The Municipal Act*.
- By-law.**
- Rev. Stat. c. 233.**
- Idem.** (3) If the majority of the votes is in favour of the by-law, it shall be finally passed by the council at its next regular meeting held after the taking of the vote, or as soon thereafter as may be.
- Restriction.** (4) If the vote is adverse no by-law for the same purpose shall afterwards be submitted to the electors within the same year.
- When submission to electors unnecessary.** (5) It shall not be necessary for a county council to submit the by-law for the assent of the electors if the by-law, on the final reading thereof, is approved by three-fifths of the members of the council then present. R.S.O. 1914, c. 203, s. 2.
- Parks to be open to public.** **2.** The parks, avenues, boulevards, and drives, and approaches thereto, and streets connecting the same, shall be open to the public free of all charge, subject to the by-laws, rules and regulations of the board of park management, and subject also to the provisions of sections 12 and 13. R.S.O. 1914, c. 203, s. 3.
- Board of park management.** **3.**—(1) In case of the adoption of this Act the general management, regulation and control of all existing parks and avenues, and of all properties both real and personal, applicable to the maintenance of parks belonging to the municipi-

pality, and of all parks, avenues, boulevards and drives which may thereafter be acquired and established under the provisions of this Act shall be vested in and exercised by a board to be called "The Board of Park Management."

(2) The authority of the board shall not extend to any streets open at the time of the adoption of the Act, with the exception of streets expressly specified in the by-law adopting the Act, or which at any time, or from time to time afterwards, in pursuance of an agreement between the council and the board, the council by by-law declares to be subject to this Act. Authority of board,—to what streets applicable.

(3) Nothing in this Act shall authorize the board to assume possession or control of any exhibition park in or belonging to the municipal corporation without the consent of both the council and of any district agricultural society or exhibition association having an interest therein. R.S.O. 1914, c. 203, s. 4. Consent of municipal council and agricultural society.

4. The board shall be a corporation, and shall be composed of the head of the municipality and of six other persons, who shall be residents or ratepayers of the municipality, but not members of the council, and shall be appointed by the council. R.S.O. 1914, c. 203, s. 5; 1921, c. 71, s. 1; 1926, c. 57, s. 2. Constitution of board.

5.—(1) The appointed members of the board shall hold office for three years, except in the case of the members of the first board, two of whom shall hold office until the 1st day of February in the year following the first appointments, two for one year, and two for two years, from that day; such members retiring in rotation, two each year, the order of such retirement to be determined by lot among themselves at their first meeting; but every member of the board shall continue in office until his successor is appointed and shall be eligible for reappointment. Tenure of office.

(2) In case of a vacancy by the death or resignation of a member, or from any cause other than the expiration of the time for which he was appointed, the member appointed in his place shall hold office for the remainder of his term and until his successor is appointed. Vacancies.

(3) Save as aforesaid, each of the appointed members shall hold office for three years from the 1st day of February in the year in which he is appointed. Term of office of appointed members.

(4) The first appointment of members of the board shall be made at the first regular meeting of the council held after the final passing of the by-law. First appointments.

(5) Thereafter the appointments shall be made annually at the first meeting of the council held after its organization and any vacancy arising from any cause other than the expira- Subsequent appointments.

tion of the time for which the member was appointed shall be filled at the first meeting of the council held after the occurrence of the vacancy.

Organization
of board.

(6) The first members of the board, within ten days after their appointment, and on such day and hour as the head of the municipal corporation shall appoint, notice of the appointment in writing, signed by him, having been duly sent to the address of each member at least one week before the day and hour named therein, shall meet at the office of the head for the purpose of organization, shall elect one of their number chairman and shall appoint a secretary who may be one of their own number.

When appoint-
ments not
made at re-
quired time.

(7) If for any reason appointments are not made at the prescribed time the same shall be made as soon as may be thereafter.

Tenure of
office of
chairman
and secretary.

(8) The chairman and secretary shall hold office at the pleasure of the board, or for such period as the board may prescribe.

Chairman
and secre-
tary *pro tem*.

(9) When the chairman or secretary is absent, or unable to act, the board may appoint a chairman or secretary *pro tempore*.

Monthly
meeting.

(10) The board shall meet at least once in every month.

Calling
special
meeting.

(11) The chairman or any two members may summon a special meeting of the board by giving at least two days' notice in writing to each member, specifying the purpose for which the meeting is called.

Vacating
office by
absence.

(12) The office of a member who is absent from the meetings of the board for three consecutive months, without leave of absence from the board or without reasons satisfactory to the board, shall be declared vacant by the board, and notice thereof shall be given to the council at its next meeting.

Quorum.

(13) No business shall be transacted at any special or general meeting unless at least four members are present.

Records.

(14) All orders and proceedings of the board shall be entered in books to be kept for that purpose and shall be signed by the chairman for the time being, and, when so entered and purporting to be so signed, shall be deemed to be original orders and proceedings, and the books may be produced and read in any judicial proceeding as evidence of the orders and proceedings. R.S.O. 1914, c. 203, s. 6.

Payment of
expenses of
members.

6.—(1) The members of the board shall serve without compensation, but each member shall be entitled to receive his actual disbursements for expenses in visiting or superintending the park or park property where the visit or service is made or rendered by direction of the board.

(2) No member of the board, or of the municipality, shall have any contract with the board, or be pecuniarily interested, directly or indirectly, in any contract or work relating to the park or park property. R.S.O. 1914, c. 203, s. 7. Prohibition against interest in contracts.

7. The board may employ all necessary clerks, agents and servants, and may prescribe their duties and compensation. R.S.O. 1914, c. 203, s. 8. Assistance.

8. The board shall keep in its office all books, maps, plans, papers and documents used in and pertaining to the business of the board, and the same shall be open to the examination of the members of the council, and of any other person appointed for that purpose by the council. R.S.O. 1914, c. 203, s. 9. Custody and inspection of records.

9. The board shall keep accounts of its receipts, payments, credits, and liabilities; and the same shall be audited by the auditors of the municipal corporation in like manner as other accounts of the municipal corporation, and shall thereafter be laid before the council by the board. R.S.O. 1914, c. 203, s. 10. Accounts.

10.—(1) The board may pass by-laws for the use, regulation, protection and government of the parks, avenues, boulevards and drives, the approaches thereto, and streets connecting the same, not inconsistent with the provisions of this Act or of any law of Ontario. Power to make by-laws, etc.

(2) The powers conferred upon municipal councils by *The Railway Act*, so far as relates to any streets or approaches under the control of the board, shall not be exercised without the consent of the board, and no street railway or other railway shall enter upon or pass through the park. Consent of board necessary for exercise of certain powers. Rev. Stat. c. 224.

(3) The board shall have power to license cabs and other vehicles for use in a park; and to let from year to year, or for any time not exceeding ten years, the right to sell refreshments, other than spirituous, fermented or intoxicating liquors, within the park under such regulations as the board shall prescribe. Licensing of cabs and vehicles and sale of refreshments.

(4) The board shall have power in and by their by-laws to attach penalties for the infraction thereof, and such by-laws may be enforced and the penalties thereunder recovered in like manner as by-laws of municipal councils, and the penalties thereunder may be enforced and recovered. Penalties.

(5) The by-laws shall be sufficiently authenticated by being signed by the chairman of the board, and a copy of any by-law, written or printed, and certified to be a true copy by any member of the board, shall be receivable as evidence without proof of any such signature. R.S.O. 1914, c. 203, s. 11. By-laws, authentication of.

Power of municipality to acquire property for park purposes.

11. Real and personal property may be devised, bequeathed, granted, conveyed, or given to the municipal corporation for the establishment or formation of a park, or for the purpose of the improvement or ornamentation of any park of the municipality, and of the avenues, boulevards and drives and approaches thereto, and of the streets connecting therewith; and for the establishment and maintenance on park property of museums, zoological or other gardens, natural history collections, observatories, monuments, or works of art, upon such trusts and conditions as may be prescribed by the donor. R.S.O. 1914, c. 203, s. 12.

Power of the board to acquire land.

12.—(1) The board may acquire by purchase, lease or otherwise the land, rights and privileges required for park purposes under this Act.

Area allowable.

(2) Land so acquired, together with that, the general management, regulation and control of which is vested in the board under the provisions of section 3, exclusive of land acquired by devise or gift, shall not together exceed in the case of cities having a population of not less than 100,000 two thousand acres, and in the case of other cities or of counties one thousand acres, and in the case of towns, villages or townships five hundred acres.

Grantee.

(3) The conveyance of all land, rights and privileges so acquired by purchase or lease shall be taken to the municipal corporation.

Power to lease lands not required.

(4) The board shall have power to let any land not immediately required for park purposes.

Power to sell lands not required.

(5) If it has more land than is required for park purposes the board may sell or otherwise dispose of the land not required in such manner and upon such terms as may be deemed most advantageous.

Lands for athletic, etc., purposes.

(6) Where a park has been purchased or has been acquired by the board or by the corporation of the municipality, otherwise than by gift or devise, or by dedication to the public by the owner of the land, freely, or at a nominal price or rental, the board may set apart a sufficient part thereof for athletic purposes or for the purposes of sport, exhibitions or other lawful amusements or entertainments, and may lease the same for such purposes for such times and on such terms as the board may see fit; but the powers conferred by this subsection shall not be exercisable with respect to any park unless and until the board has applied for and received the approval of the Railway and Municipal Board. R.S.O. 1914, c. 203, s. 13.

Municipality may empower board to manage any corporation land.

13.—(1) The council of the municipal corporation may by by-law provide that any land acquired by the corporation and not immediately required for any other purpose shall be under the management and control of the board, and the board

may set apart such land or any part thereof for athletic purposes or for the purposes of sport exhibitions or other lawful amusements or entertainments, and may lease the same for such purposes for such times and on such terms as the board may see fit.

(2) The council may repeal any by-law passed under sub-section 1, and the municipal corporation may thereafter sell or otherwise dispose of the land or use the same for any lawful purpose of the corporation. R.S.O. 1914, c. 203, s. 14. Council may repeal by-law.

14. The board, its engineers, surveyors, servants and workmen may enter upon the land of any person in the municipality, or, in the case of a city within ten miles, and in the case of a town within five miles thereof, and may survey, set out, and ascertain such parts thereof as are required for parks, avenues, boulevards and drives and approaches thereto, or for any other purposes of the board, including the supply of water for artificial lakes, fountains, and other park purposes; and, with the consent of all parties interested capable of consenting, may divert and expropriate any river, ponds of water, springs or streams of water therein which the engineer, surveyor or other person authorized by the board may deem suitable for such purposes; and the board may contract with the owner or occupier of such land, and with those having a right or interest in such water, for the purchase or renting thereof or of any part thereof, or of any privilege which may be required for the purposes of the board; but the board shall not interfere with the waterworks or water supply of any municipal corporation or of any waterworks company. R.S.O. 1914, c. 203, s. 15. Power to enter on lands and expropriate streams, etc. No interference with water-works.

15. In case of any disagreement between the board and the owner or occupier of, or any other person interested in such land, or any person having an interest in such water, or in the natural flow thereof, or in any such privilege respecting the amount of purchase money or yearly rental thereof, or as to the damages which the expropriation thereof by the board will cause, or otherwise, the matter in question shall be determined by arbitration under *The Municipal Act*, as hereinafter provided. R.S.O. 1914, c. 203, s. 16. Arbitration. Rev. Stat. c. 233.

16. Sections 337, 338, 340 to 342, and 344 to 351 of *The Municipal Act* shall be read as part of this Act, and shall apply to the board as if the board were named therein instead of the corporation or municipal council. R.S.O. 1914, c. 203, s. 17. Application of Rev. Stat. c. 233.

17.—(1) The board shall, in the month of February in every year, prepare an estimate of the sums required during the ensuing financial year, for,— Board to make yearly estimates.

(a) the interest on money borrowed;

- (b) the amount of the sinking fund or principal;
- (c) the expense of maintaining, improving, and managing the parks, boulevards, avenues and streets under its control; and
- (d) the interest and instalments of purchase money for the purchase of small squares or parks.

When estimate to be reported.

(2) The board shall report its estimate to the council not later than the 15th day of February in each year. R.S.O. 1914, c. 203, s. 18 (1, 2).

Special rate for park purposes.

(3) The council shall, in addition to all other rates and assessments for municipal purposes, levy and assess in every year a special annual rate, sufficient to furnish the amount required for the year, but not exceeding one mill in the dollar upon the assessed value of all rateable real and personal property. Such rate shall be called "The Park Fund Rate," and shall be deemed to be included in the limit of the rate authorized by section 306 of *The Municipal Act*. R.S.O. 1914, c. 203, s. 18 (3); 1920, c. 70, s. 1.

Rev. Stat. c. 233.

Power to issue debentures.

(4) Subject as hereinafter provided the council may also, on the requisition of the board, raise by a special issue of debentures, to be called "Park Fund Debentures," the sums required for the purpose of purchasing the land and privileges which are reported by the board to be necessary for park purposes, and for making permanent improvements upon any land theretofore acquired by the board for park purposes. R.S.O. 1914, c. 203, s. 18 (4).

Issuing of debentures for half cost of park when remainder contributed.

(5) If at least one-half of the cost of establishing a park is contributed by private subscription or otherwise the council shall, at the request of the board of park commissioners, issue debentures for the remaining one-half, but only when the annual sum required to meet the annual interest and sinking fund or principal can be provided for without exceeding the limit of one mill in the dollar provided for in subsection 3. R.S.O. 1914, c. 203, s. 18 (5); 1920, c. 70, s. 2.

By-law, when not necessary to submit to electors.

(6) It shall not be necessary to submit to the electors a by-law authorizing the issue of debentures in case the annual sum required to meet the annual interest and sinking fund or principal does not, with a reasonable allowance for annual expenses of managing, improving and maintaining the parks and other works under the control of the board, exceed the limit of one mill in the dollar, any provisions in *The Municipal Act*, or any special Act, relating to the municipality, to the contrary notwithstanding. R.S.O. 1914, c. 203, s. 18 (6); 1920, c. 70, s. 3.

Currency of debentures.

(7) The debentures shall be payable within forty years at furthest from the date of their issue.

(8) Debentures issued under the authority of this Act, shall form a lien and charge upon all land which is by this Act declared to be subject to the control and management of the board. To constitute lien.

(9) In case of a sale the board may sell free from the lien, but the purchase money shall be applied to the payment of park debentures or to the purchase of other land for park purposes. Sale free from lien; application of proceeds.

(10) During the currency of the debentures the council shall withhold and retain out of and as a first charge on the annual rate the amount required to meet the annual interest of the debentures, and the annual sinking fund or principal mentioned in subsection 3, to be provided for the retirement thereof as the debentures become due. Annual rate for retirement of debentures.

(11) Except as in this Act otherwise expressly provided, the provisions of *The Municipal Act*, as to money by-laws and the debentures to be issued thereunder, shall apply to by-laws passed by a municipal council under the authority of this Act and the debentures issued thereunder. Provisions of Municipal Act.

(12) All money realized or payable under this Act shall be received by the treasurer of the municipality in the same manner as other money, and shall be by him deposited to the credit of the park fund, and shall be paid out by him on the orders of the board; save as to the amount required to meet the interest on and provide a sinking fund or principal for debentures. R.S.O. 1914, c. 203, s. 18 (7-12). Money, application of.

18. No person shall

Prohibitions and penalties.

- (a) wilfully or maliciously hinder, or interrupt, or cause or procure to be hindered or interrupted, the board or its engineers, surveyors, managers, contractors, servants, agent, workmen, or any of them in the exercise of any of the powers and authorities in this Act authorized and contained; Hindering, etc., board or its officers.
- (b) wilfully or maliciously let off or discharge any water so that the same runs waste or useless from or out of any reservoir, pond, or lake, or other receptacle for water connected with any such park; Wasting water.
- (c) cause any dog or other animal to swim in, or throw or deposit any injurious, noisome, or offensive matter into the water in any reservoir, lake, pond, or other receptacle for water connected with any such park, or upon the ice in case such water is frozen, or in any way foul the water, or commit any unlawful damage or injury to the works, pipes, or water, or encourage the same to be done; Fouling reservoir.

Diverting
water.

- (d) lay or cause to be laid any pipe or main to communicate with any pipe or main belonging to the waterworks connected with any such park or parks, or in any way obtain or use any water thereof without the consent of the board;

Fouling
water
supply.

- (e) wash or cleanse any cloth, wool, leather, skin or animals, cause any dog or other animal to swim therein, or place any noisome or offensive thing within the distance of three miles in the case of a city, and one mile in the case of any other municipality, in any river, pond, creek, spring, source or fountain from which the water for the supply of any such park or parks is taken, or convey, cast, throw, or put any filth, dead carcass or other injurious, noisome or offensive things therein, or within the distance as above mentioned; or cause, permit, or suffer the water of any sink, sewer, or drain to run or be conveyed into the same, or cause any other thing to be done whereby the water therein may be in any way tainted or fouled;

Destroying
ornamental
trees, etc.

- (f) wilfully or maliciously injure, hurt, deface, tear or destroy any ornamental or shade tree or shrub or plant, or any statue, fountain, vase or fixture of ornament or utility in any street, park, avenue, drive, or other public place under the control of the board, or wilfully, negligently or carelessly suffer or permit any horse or other animal driven by or for him, or any animal belonging to him or in his custody, possession or control, and lawfully on the street or other public place, to break down, destroy or injure any tree, shrub or plant therein;

Injuring
animals, etc.

- (g) wilfully or maliciously injure, hurt, or otherwise molest or disturb any animal, bird, or fish kept in any such park or in the lakes or ponds therewith connected.

Penalty.

(2) For every contravention of subsection 1, the offender shall incur a penalty not less than \$1 or more than \$20; or such offender may be imprisoned with or without hard labour, in the first instance, for any term not exceeding thirty days; and the person so offending shall be liable to an action at the suit of the board to make good any damage done by him. R.S.O. 1914, c. 203, s. 19.

Police
protection.

19. The board of commissioners of police of every city and town shall, upon the request of the board of park management, detail for service in any of the property under the care or control of the park board so many of the police force as the board of police commissioners may deem necessary to maintain order and protect property therein; and any police

constable may remove therefrom any person violating any of the provisions of this Act, or of any of the rules and regulations established by the board. R.S.O. 1914, c. 203, s. 20.

20. The watchmen and other officers of the board, when in the discharge of their duties, shall have all the powers and authority of a constable. R.S.O. 1914, c. 203, s. 21.

Powers of
officers
of Board.
